



Federal Communications Commission
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DA 22-281

Small Entity Compliance Guide

Tribal Library Eligibility for Schools and Libraries Universal Service Support

**FCC 22-8
CC Docket No. 02-6
Released January 28, 2022**

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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I. OBJECTIVES OF THE PROCEEDING

On January 27, 2022, the Commission adopted the *Schools and Libraries Universal Service Support Mechanism Report and Order* (*Tribal Libraries Report and Order*). In this *Tribal Libraries Report and Order* in CC Docket No. 02-6, the Commission updated its E-Rate program rules in order to clarify the eligibility of Tribal libraries for E-Rate program support and address a long-standing barrier to participation. Specifically, the Commission added “Tribal library” to the definition of “library” in section 54.500 of the Commission’s rules and removed an old reference to the 1996 public law version of the Library Services and Technology Act (LSTA).

The E-Rate program ensures schools and libraries can obtain affordable, high-speed broadband services and internal connections to connect students and library patrons. The program provides discounts of 20% to 90% on these services to eligible schools and libraries. Since the adoption of the E-Rate program rules in 1997, some Tribal libraries have been unable to seek E-Rate support because they were ineligible for LSTA funds from their state library administrative agencies, as required by section 254(h)(4) of the Communications Act. In 2018, Congress adopted the Museum and Library Services Act that specifically includes Tribal libraries in the definition of libraries that are eligible for LSTA support from a state library administrative agency. Through the adoption of the *Tribal Libraries Report and Order*, the Commission’s rules are now consistent with Congress’ amendments to the LSTA and clarify that Tribal libraries are eligible for support from the E-Rate program.

These rule changes will help ensure that Tribal libraries and their library patrons will have access to E-Rate funding for affordable, high-speed broadband. This furthers the Commission’s E-Rate program goal of ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries.

II. COMPLIANCE REQUIREMENTS

Tribal Libraries Now Eligible for E-Rate Funding

The *Tribal Libraries Report and Order* makes rule changes to: (1) add “Tribal library” to the definition of “library” in section 54.500 and (2) remove a reference to Public Law 104-208, an older version of the Library Services and Technology Act.

- To the extent Tribal libraries were unable to participate or uncertain about their eligibility before, Tribal libraries are now able to request E-Rate support for eligible equipment and services.
- Tribal libraries may apply for E-Rate support in the current E-Rate application filing window which closes March 22, 2022, for funding year 2022 (which runs from July 1, 2022 through June 30, 2023), or start the process to apply for E-Rate support in funding year 2023. Tribal libraries may begin the competitive bidding process for funding year 2023 on July 1, 2022, when the funding year 2023 FCC Form 470 will be available.
- Tribal libraries can be designated by a Tribal Council.
- Tribal libraries should have three basic characteristics: (1) regularly scheduled hours; (2) staff; and (3) materials available for library users.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The Commission’s actions in the *Tribal Libraries Report and Order* did not create any new recordkeeping or reporting requirements. However, E-Rate applicants and service providers are subject to audits. E-Rate applicants and service providers are also required to retain documentation regarding the

application for, receipt and delivery of E-Rate-supported equipment and services, and demonstrating compliance with the E-Rate program rules for at least ten (10) years. *See* 47 CFR § 54.516.

IV. IMPLEMENTATION DATE

The rules in the *Report and Order* shall become effective on March 16, 2022, thirty (30) days after publication of the text or summary thereof in the Federal Register.

V. INTERNET LINKS

A copy of the *Tribal Libraries Report and Order* is available at:

<https://docs.fcc.gov/public/attachments/FCC-22-8A1.pdf>.

A copy of the Federal Register Summary of the *Tribal Libraries Report and Order* is available at:

<https://www.govinfo.gov/content/pkg/FR-2022-02-14/pdf/2022-03057.pdf>.

A copy of the Funding Year 2022 Eligible Services List, available at:

<https://docs.fcc.gov/public/attachments/DA-21-1602A1.pdf>.

An overview of the E-Rate program, along with information on the other program requirements, can be found on the website of the program's administrator, the Universal Service Administrative Company (USAC), at <https://www.usac.org/e-rate/>.

A website devoted to Tribal Training opportunities for the E-Rate program can be found on the USAC website: <https://www.usac.org/e-rate/learn/tribal-training/>.